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MILLER PATENT SERVICES 2500 DOCKERY LANE RALEIGH, NC 27606			BELIVEAU, SCOTT E	
			ART UNIT	PAPER NUMBER
			2614	
DATE MAILED: 01/24/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/774,458

Applicant(s)

ZUSTAK ET AL.

Examiner

Scott Beliveau

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The declaration filed on 15 July 2005 under 37 CFR 1.131 has been considered but is ineffective to overcome the Novak (US Pub No. 2002/0104099 A1) reference.

The evidence submitted is insufficient to establish conception of the invention prior to the effective date of the Novak reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897).

The inventor must form a definite and permanent idea of the complete and operable invention to establish conception. *Bosies v. Benedict*, 27 F.3d 539, 543, 30 USPQ2d 1862, 1865 (Fed. Cir. 1994). Exhibit A is relied upon as to evidence of the conception or permanent idea of the complete and operable invention corresponding to the claimed subject matter. The supplied information generally sets forth the usage of a wide area network (WAN) interconnecting a cable service provider or MOS to a plurality of STBs. Users are capable of posting/archiving videos or can stream a video between real-time video between members so as to permit a virtual presence of a local member at a remote event. The claimed subject matter, however, contains numerous elements and features for which there exists no evidence of conception so as to provide a definite and permanent idea of the complete and operable invention as disclosed to another. For example, claims 1, 9, 10, 11, 18, recite the particular usage of "multicasting" which is not disclosed in Exhibit A. Claims 1, 9, 10, and

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18 recite the particular usage for distributing the actual content as being an “actual television channel”, however, the Exhibit is silent with respect to the particular nature of the distribution such that it is necessarily an actual versus virtual channel. Claims 2-4, 9, 14, and 18 claim particular methods for uploading programming content to the service provider including a dial-up narrowband telephone communication link, a wideband telephone communication link, or via a cable modem which is not disclosed in Exhibit A. Claims 5, 13, and 18 recite the usage of a “digital television channel”, however, there is no evidence as to the particular usage of a “digital television channel” at the time of conception. Claims 6, 9, 12, and 18 recite the usage of encryption and techniques for encryption key distribution, however, there is no evidence as to the particular conception of these elements. Claims 7 and 9 set forth that the class of subscribers can be a family, affiliates of a corporate entity, and people with a common interest, however, Exhibit A only provides evidence as to the particular usage of family members. Claims 8, 15, and 18 set forth that the uploading is performed by one of a still camera, a video camera, a video tape player, an audio tape player, a CD player, a PVR, and a scanner while the Exhibit only suggests the usage of a STB. Claims 10, 16, 17, and 18 recite details pertaining to the particular usage of a scheduler and schedule arbiter so as to particularly schedule when the programming is to be distributed. The Exhibit is silent with respect to the schedule arbitration techniques. Accordingly, Exhibit A is not considered to be sufficient demonstrative evidence or a complete disclosure to another in light of the claimed subject matter.

The evidence submitted is further insufficient to establish diligence from a date prior to the date of reduction to practice of the Novak reference to either a constructive reduction to

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practice or an actual reduction to practice. An applicant must account for the entire period during which diligence is required. *Gould v. Schawlow*, 363 F.2d 908, 919, 150 USPQ 634, 643 (CCPA 1966) (Merely stating that there were no weeks or months that the invention was not worked on is not enough.); *In re Harry*, 333 F.2d 920, 923, 142 USPQ 164, 166 (CCPA 1964) (statement that the subject matter "was diligently reduced to practice" is not a showing but a mere pleading). A 2-day period lacking activity has been held to be fatal. *In re Mulder*, 716 F.2d 1542, 1545, 219 USPQ 189, 193 (Fed. Cir. 1983) (37 CFR 1.131 issue). As noted in the declarations, it is the inventors statement that the invention was conceived prior to 28 August 2000 and constructively reduced to practice on 31 January 2001. There is no showing or statement with respect to the continued diligence on the part of the inventors during the entire period to reduce the invention to practice. Exhibit B is provided as evidence showing that the inventors provided the invention disclosure to Miller Patent Services, Inc. on 31 August 2000. There is no showing as to the inventors activities working to constructively reduce the invention to practice between prior to 28 August 2000 and 31 August 2001. The statement that Mr. Miller met with some of the inventors on 27 September 2000 and 13 November 2000 is lacking of any showing as to positive activities throughout the entire period by inventors, nor is it clear that efforts on the other applications is necessarily material to the reduction to practice of the instant application.

With respect to statements regarding the diligence of the attorney in preparing and filing patent application inures, as set forth in MPEP 2138.06, six days to execute and file application is acceptable. *Haskell v. Coleburne*, 671 F.2d 1362, 213 USPQ 192, 195 (CCPA 1982). See also *Bey v. Kollonitsch*, 866 F.2d 1024, 231 USPQ 967 (Fed. Cir. 1986) Based

upon the foregoing guidance and assuming six days per application, then it might have been reasonable to have expected the instant application to have been filled within 66 days (being the 11<sup>th</sup> application filled) as opposed to the actual ~150 days taken to file and prepare the instant application. Furthermore, as indicated by applicant's declaration, no priority in filling any of the applications was set forth. As indicated in Exhibit B, the instant application was chronologically listed 1<sup>st</sup>. However, it was the 11<sup>th</sup> application filled. Reasonable diligence on behalf of the attorney would appear to have dictated that the applications be worked on in chronological order resulting in the filling of the instant application within six days from its receipt as opposed to ~150 days. Furthermore, there is no declaration made by Mr. Jerry A. Miller with respect to his activities which would appear to be reasonably required in light of the lengthy time frame required to prepare and file the instant application so as to substantiate the applicant's opinion as to the diligence of Mr. Jerry A. Miller regarding the lengthy time required to prepare the application and the particular order in which the applications were worked on. Accordingly, based upon the evidence provided it is the examiner's opinion that insufficient evidence to establish continuous diligence from a date prior to the date of reduction to practice of the Novak reference has been provided.

### ***Response to Arguments***

2. Applicant's arguments filed 15 July 2005 have been fully considered but they are not persuasive. Applicant's response appears to be primarily limited to the 131 declaration which was insufficient to overcome the rejection of record as indicated. Applicant's further arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the

patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made as opposed to merely noting that differences exist.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
5. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Novak (US Pub No. 2002/0104099 A1) in view Boyer (US Pub No. 2003/0066085 A1).

In consideration of claim 1, the Novak reference discloses a “method of providing a channel of television programming to a class of subscribers” (Abstract). The method comprises a web-site locatable at any suitable server (Para. [0040] which may be part of an interactive television system (Para. [0025]) “receiving programming content from a first

subscriber” wherein “the programming content” is “transmitted electronically from the first subscriber . . . via a first subscriber's set-top box” [122] (Para. [0056], [0061], and [0078]). The received programming content is subsequently “multicast” from the web-site or cable provider (Para. [0033], [0035], [0060], and [0084]) to the “class of subscribers” such as those belonging to a class of people with a common interest for the delivery of the uploaded material such that the “multicasting is carried out by addressing a set-top box corresponding to each subscriber belonging to the class of subscribers” or group of subscribers interested in the material with information necessary to access the material (Figure 11; Para. [0080] – [0082], [0084], and [0089]). Subsequently, the “set-top box” [122] “accesses the programming content by accessing a specified actual television channel” (ex. channel 28 as illustrated in Figure 9) associated with the distribution of the program material (Para. [0026], [0033], [0060], [0069], [0070], [0075], [0084], and [0086]). As aforementioned, the Novak reference discloses that the particular web site [124] may be located any suitable server accessible via the internet (Para. [0040]), however, the reference does not explicitly disclose nor preclude that the web-site server does not reside at a “television service provider headend”.

Figure 3 of the Boyer et al. reference provides evidence that it is common knowledge for a “television service provider headend” [88] to comprise a server for a web-site. Accordingly, it would have been obvious to one having ordinary skill in the art to modify the Novak reference such that the web-site server resides at a “television service provider headend” such that media to/from the subscriber web-site are being distributed “at television service provider” for the inherent advantages associated with such including but not limited



to providing an efficient means to distribute Internet based content based upon the relative proximity between the subscriber and the cable headend.

Claims 2-4 are rejected wherein the “programming content is received from the first subscriber by an upload to the service provider headend via a dial-up narrowband telephone communication link” or “via a wideband telephone communication link”, or “via a cable modem communication link” (Novak: Para. [0030]).

Claim 5 is rejected wherein the “multicasting comprises multicasting the programming content over a leased digital television channel” or PPV channel (Novak: Para. [0081]).

In consideration of claim 6, the Novak reference discloses that the “multicasting is carried out by: encrypting the programming content using an encryption key . . . and broadcasting the encrypted programming content to the class of subscribers” (Para. [0082]). The reference, however, does not explicitly set forth “providing the decryption key to the class of subscribers”. However, this limitation is believed to be implicit to the reference as the distributed encrypted content would require a means of “providing the decryption key” associated with decrypting the content such that the provide a means by which the distributed encrypted content is decrypted/unscrambled for viewing based upon symmetric and/or public-private keys encryption/decryption techniques.

Claim 7 is rejected wherein the “class of subscribers comprise one of a family, affiliates of a corporate entity, and people with a common interest” (Novak: Para. [0026], [0058], [0070], and [0080]).

Claim 8 is rejected wherein “the programming content is received from the first subscriber by an upload to the service provider headend of content from one of a still camera,

a video camera, a video tape player, an audio tape player, a CD player, a PVR and a scanner” (Novak: Para. [0039] and [0061]).

Claim 9 is rejected as aforementioned, wherein the Novak reference discloses a “method of providing a channel of television programming to a class of subscribers” (Abstract), wherein “the class of subscribers comprise one of a family, affiliates of a corporate entity, and people with a common interest, the method comprising in combination” (Para. [0026], [0058], [0070], and [0080]). The method comprises a web-site locatable at any suitable server (Para. [0040]) which may be part of an interactive television system (Para. [0025]) that “receives programming content from a first subscriber” wherein “the programming content” is “transmitted electronically from the first subscriber. . . via a first subscriber's set-top box” [122] (Para. [0056], [0061], and [0078]) though “an upload . . . via one of a dial-up narrowband telephone communication link, a wideband telephone communication link and a cable modem communication link” (Para. [0030]). The received programming content is subsequently “multicast” (Para. [0060] and [0084]) from the web-site or cable provider (Para. [0033], [0035], [0060], and [0084]) “over a leased digital television channel” (Para. [0081] and [0089]) to the “class of subscribers” such as those belonging to a class of people with a common interest for the delivery of the uploaded material such that the “multicasting is carried out by addressing a set-top box corresponding to each subscriber belonging to the class of subscribers” or group of subscribers interested in the material with information necessary to access the material (Figure 11; Para. [0080] – [0082], [0084], and [0089]).

While the reference discloses that the “multicasting is carried out by: encrypting the programming content using an encryption key . . . and broadcasting the encrypted

programming content to the class of subscribers over a specified actual television channel” (Figure 9; Para. [0026], [0033], [0060], [0069], [0070], [0075], [0082], [0084], and [0086]). The reference, however, does not explicitly set forth “providing the decryption key to the class of subscribers”. However, this limitation is believed to be implicit to the reference as the distributed encrypted content would require a means of “providing the decryption key” associated with decrypting the content such that the provide a means by which the distributed encrypted content is decrypted/unscrambled for viewing based upon symmetric and/or public-private keys encryption/decryption techniques.

With respect to the particular limitation such that the programming content is uploaded/downloaded from the “television service provider headend”, as aforementioned, the Novak reference discloses that the particular web site [124] may be located any suitable server accessible via the internet (Para. [0040]), however, the reference does not explicitly disclose nor preclude that the web-site server does not reside at a “television service provider headend”. Figure 3 of the Boyer et al. reference provides evidence that it is common knowledge for a “television service provider headend” [88] to comprise a server for a web-site. Accordingly, it would have been obvious to one having ordinary skill in the art to modify the Novak reference such that the web-site server resides at a “television service provider headend” such that media to/from the subscriber web-site are being distributed “at television service provider” for the inherent advantages associated with such including but not limited to providing an efficient means to distribute Internet based content based upon the relative proximity between the subscriber and the cable headend.

In consideration of claims 10 and 11, the Novak reference discloses a “method of providing a channel of television programming to a class of subscribers” (Abstract). The method comprises “establishing the class of subscribers” (Para. [0058]) whereby those subscribers may “lease a television channel from a television service provider” (Para. [0081]) in order to access uploaded or “electronically transmitted programming content from a first subscriber to the service provider . . . from the first subscriber’s set-top box” (Para. [0056], [0061], and [0078]). Once uploaded, the “first subscriber being one of the class of subscribers” (ex. family member) “schedules playback of the programming content” (Figures 6-7; Para. [0062] – [0067]) whereupon it is subsequently “multicast . . . over the leased television channel to the class of subscribers” such that the “multicasting is carried out by addressing a set-top box corresponding to each subscriber belonging to the class of subscribers” or group of subscribers interested in the material with information necessary to access the material (Figure 11; Para. [0080] – [0082], [0084], and [0089]). As aforementioned, the “set-top box” [122] subsequently “accesses the programming content by accessing a specified actual television channel” (ex. channel 28 as illustrated in Figure 9) associated with the distribution of the program material (Para. [0026], [0033], [0060], [0069], [0070], [0075], [0084], and [0086]).

As aforementioned, the Novak reference is not limiting with respect to the location of the upload web-site such that the web-site server does not reside at a “television service provider headend”. Figure 3 of the Boyer et al. reference provides evidence that it is common knowledge for a “service provider headend” [88] to comprise a server for a web-site. Accordingly, it would have been obvious to one having ordinary skill in the art to modify the

Novak reference such that the web-site server resides at a “television service provider headend” such that media to/from the subscriber web-site is distributed to/from the “service provider headend” for the inherent advantages associated with such including but not limited to providing an efficient means to distribute Internet based content based upon the relative proximity between the subscriber and the cable headend.

In consideration of claim 12, as aforementioned, the Novak reference discloses that the “multicasting is carried out by: encrypting the programming content using an encryption key . . . and broadcasting the encrypted programming content to the class of subscribers” (Para. [0082]). The reference, however, does not explicitly set forth “providing the decryption key to the class of subscribers”. However, this limitation is believed to be implicit to the reference as the distributed encrypted content would require a means of “providing the decryption key” associated with decrypting the content such that the provide a means by which the distributed encrypted content is decrypted/unscrambled for viewing based upon symmetric and/or public-private keys encryption/decryption techniques.

Claim 13 is rejected wherein the “television channel comprises a digital television channel” associated with an IP broadcast (Novak: Para. [0069] and [0089]).

Claim 14 is rejected wherein the “programming content is received from the first subscriber by an upload to a service provider headend via one of a dial-up narrowband telephone communication link, a via a wideband telephone communication link and a cable modem communication link” (Novak: Para. [0030]).

Claim 15 is rejected wherein “the programming content is received from the first subscriber by an upload to the service provider headend of content from one of a still camera,

a video camera, a video tape player, an audio tape player, a CD player, a PVR and a scanner” (Novak: Para. [0039] and [0061]).

In consideration of claim 16, the Novak reference discloses the particular usage of an “arbiter” (Figure 7) further operable to “removing the programming content by: requesting a schedule arbiter to remove the content and the schedule arbiter removing the content” (Para. [0065]) so as to ensure that multiple programs are not scheduled for the same time slot.

Claim 17 is rejected wherein the “scheduling is carried out by a schedule arbiter” (Novak: Para. [0066]).

Claim 18 is rejected as aforementioned, wherein the Novak reference discloses a “method of providing a channel of television programming to a class of subscribers” (Abstract), wherein “the class of subscribers comprise one of a family, affiliates of a corporate entity, and people with a common interest, the method comprising in combination” (Para. [0026], [0058], [0070], and [0080]). The method comprises “receiving programming content from a first subscriber” wherein “the programming content” is “transmitted electronically from the first subscriber . . . via a first subscriber's set-top box” [122] (Para. [0056], [0061], and [0078]) though “one of a dial-up narrowband telephone communication link, a wideband telephone communication link and a cable modem communication link” (Para. [0030]). Once uploaded, the “first subscriber being one of the class of subscribers” (ex. family member) uses a “schedule arbiter to schedule playback of the programming content” (Figures 6-7; Para. [0062] – [0067]) and to “remove the programming content by: requesting a schedule arbiter to remove the content and the schedule arbiter removing the content” (Para. [0065]) so as to ensure that multiple programs are not scheduled for the same time slot. Once

the schedule has been established, the “programming content” initially received by the “set-top box” [122] from “one of a still camera, a video camera, a video tape player, an audio tape player, a CD players, a PVR and a scanner” (Para. [0039] and [0061]), is subsequently “multicast . . . over the leased television channel to the class of subscribers” by “addressing a set-top box corresponding to each subscriber belonging to the class of subscribers for transmission of the content” (Figure 11; Para. [0060], [0080] – [0082], [0084], and [0089]).

While the Novak reference discloses that the “multicasting is carried out by: encrypting the programming content using an encryption key . . . and broadcasting the encrypted programming content to the class of subscribers over a specified actual television channel” (Figure 9; Para. [0026], [0033], [0060], [0069], [0070], [0075], [0082], [0084], and [0086]). The reference, however, does not explicitly set forth “providing the decryption key to the class of subscribers”. However, this limitation is believed to be implicit to the reference as the distributed encrypted content would require a means of “providing the decryption key” associated with decrypting the content such that the provide a means by which the distributed encrypted content is decrypted/unscrambled for viewing based upon symmetric and/or public-private keys encryption/decryption techniques.

With respect to the particular limitation such that the programming content is uploaded/downloaded from the “television service provider headend”, as aforementioned, the Novak reference discloses that the particular web site [124] may be located any suitable server accessible via the internet (Para. [0040]), however, the reference does not explicitly disclose nor preclude that the web-site server does not reside at a “television service provider headend”. Figure 3 of the Boyer et al. reference provides evidence that it is common

knowledge for a “television service provider headend” [88] to comprise a server for a web-site. Accordingly, it would have been obvious to one having ordinary skill in the art to modify the Novak reference such that the web-site server resides at a “television service provider headend” such that media to/from the subscriber web-site are being distributed “at television service provider” for the inherent advantages associated with such including but not limited to providing an efficient means to distribute Internet based content based upon the relative proximity between the subscriber and the cable headend.

Claim 19 is rejected in view of the combined references wherein the “programming content is stored on a server” or web-server that “resides at the service provider headend” (Boyer et al.: Figure 3).

Claim 20 is rejected in view of the combined references wherein the “programming content is stored on a server” or web-server that “resides at the service provider headend” (Boyer et al.: Figure 3). As set forth in the Novak reference, the “server” associated with the web-site is “designated for storage of content for broadcast over leased television channels” of the cable provider (Novak: Para. [0079], [0081], [0085], and [0086]).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.



knowledge for a “television service provider headend” [88] to comprise a server for a web-site. Accordingly, it would have been obvious to one having ordinary skill in the art to modify the Novak reference such that the web-site server resides at a “television service provider headend” such that media to/from the subscriber web-site are being distributed “at television service provider” for the inherent advantages associated with such including but not limited to providing an efficient means to distribute Internet based content based upon the relative proximity between the subscriber and the cable headend.

Claim 19 is rejected in view of the combined references wherein the “programming content is stored on a server” or web-server that “resides at the service provider headend” (Boyer et al.: Figure 3).

Claim 20 is rejected in view of the combined references wherein the “programming content is stored on a server” or web-server that “resides at the service provider headend” (Boyer et al.: Figure 3). As set forth in the Novak reference, the “server” associated with the web-site is “designated for storage of content for broadcast over leased television channels” of the cable provider (Novak: Para. [0079], [0081], [0085], and [0086]).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The Liwerant et al. (US Pub No. 2005/0246752 A1) reference discloses a system and method for uploading and sharing videos between authorized parties.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information

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about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Scott Beliveau  
Examiner  
Art Unit 2614

SEB  
January 10, 2006